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July 25, 2006

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**BY ELECTRONIC FILING**

The Honorable Gregory M. Sleet  
United States District Court  
844 North King Street  
Wilmington, DE 19801

Re: *Telcordia Technologies, Inc. v. Lucent Technologies, C.A. No. 04-875 (GMS)*  
*Telcordia Technologies, Inc. v. Cisco Systems, Inc., C.A. No. 04-876 (GMS)*

Dear Judge Sleet:

I am writing in response to Telcordia's letter of yesterday. The Scheduling Order, as amended, provided that opening expert reports were due from the party having the burden of proof on an issue on June 28, with answering reports due July 21, and "reply expert reports, if necessary" due on July 28. The purpose of reply reports was to permit the party that submitted an opening report to respond to something in the answering report, if necessary. Although Telcordia had the burden of proof on infringement of the '306 patent, it did not serve an opening expert report on June 28. In order to make a record on the '306 infringement issues, the defendants served a noninfringement report on July 21, in accordance with the Scheduling Order.

The Scheduling Order did not contemplate that Telcordia could wait until it had defendants' expert report to disclose its opinions for the first time on issues where it has the burden of proof. Just as a plaintiff cannot wait until rebuttal at trial to first offer evidence on its claims, it also cannot disclose for the first time in a reply report expert opinions in support of those claims. That would defeat the purpose of the Scheduling Order provision that expert reports are due first from the party with the burden of proof. That party has no right to hold expert opinions until reply, and a reply report has no place where there was no opening report. *Cf.* D.Del. LR 7.1.3(c)(2) (A party "shall not reserve material for the reply brief which should have been included in a full and fair opening brief.").

Respectfully,

/s/ Jack B. Blumenfeld (#1014)

Jack B. Blumenfeld

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